

**PUBLIC COMMENTS
OF THE CITY OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In the Federal Consistency Appeal of Millennium Pipeline Company, L.P. from an
Objection by the New York State Department of State
Pursuant to the Coastal Zone Management Act

November 13, 2002

The City of New York appreciates the National Oceanic and Atmospheric Administration's decision to allow an opportunity for a public hearing on the Millennium Pipeline appeal.

INTRODUCTION

As the agency responsible for the provision of water to 9 million New York State residents, including residents of the City of New York and other areas in the coastal zone, the New York City Department of Environmental Protection (DEP) submits these comments in support of the New York State Department of State's (State) determination that the Millennium Pipeline, as it is currently proposed, is not consistent with the New York State Coastal Management Program (CMP).

DEP's support for the State's determination is not based upon any objection to new supplies of natural gas. Rather, we oppose the risks to water supply infrastructure that are to be borne by the citizens of New York as a result of poor planning and pipeline location. Additionally, the City would like to restate the relevance of the water supply infrastructure to the CMP and that the national interest is better served through preventing the adverse impacts on the coastal zone than by allowing the project to move forward as proposed since there are reasonable alternate routes. Further, Millennium has not demonstrated that the proposed pipeline is consistent with the objectives of the Coastal Zone Management Act (CZMA) or that it is necessary in the interest of national security.

RELEVANCE OF THE CITY OF NEW YORK'S ISSUES

The City of New York's Catskill Aqueduct supply's roughly 40% of the City's water supply and is the sole source of water for other communities in the coastal zone. Contrary to Millennium's assertion in its initial brief, Millennium's proposed crossing of the Aqueduct was properly reviewed by the State. The CZMA authorizes the State to consider the impacts to the coastal zone that result from activities inside or outside the coastal zone. Therefore, given the grave impacts that may result from the Millennium Pipeline on the Catskill Aqueduct and the region's water supply, the State was correct to include Millennium's impact on the Catskill Aqueduct as a basis for its inconsistency determination.

THE PROJECT IS NOT IN THE NATIONAL INTEREST

In order to override the State's determination, Millennium must demonstrate that the project's national interest outweighs its adverse coastal effects. However, the adverse coastal effects are significant.

In particular, nowhere along the pipeline route is there a crossing of infrastructure so critical to the economic, environmental and public health of the City of New York and the region as the crossing of water supply aqueducts. In total, Millennium proposed crossings each of the three New York City aqueducts, some more than once, for a total of five aqueduct crossings. With select mitigation, DEP has preliminarily found four of the five crossings to be acceptable. However, one of the aqueduct crossings proposes that the pipeline be within two feet of the Catskill Aqueduct at a critical juncture of the Bryn Mawr Siphon. A two-foot separation between the Siphon and the pipeline poses too great a risk that a pipeline construction accident, pipeline failure, or terrorist act could damage the Aqueduct, possibly causing the siphon pipes to rupture.

Such a rupture would trigger a violent release of an enormous volume of water. The City of New York would be without 40 percent of its water supply while other municipal systems that draw directly from the Aqueduct would face even greater losses. Such an unprecedented loss of water would create a public health emergency in the City and Westchester County.

The United States Army Corps of Engineers has found that building a pipeline within two feet of the Aqueduct poses an inherent security risk that could not entirely be eliminated through design modifications. Further, the Corps found that a rupture to the pipeline would result in damage to the Aqueduct.

Due to the precarious nature of the proposed crossing, Millennium has suggested pipeline construction modifications. However, there is absolutely no evidence proving that the proposed modifications eliminate risk to the Aqueduct. Millennium included 77 exhibits in their initial brief in an effort to support various assertions. However, none of those 77 exhibits provide a shred of evidence that the measures proposed at the Bryn Mawr crossing would adequately protect the Aqueduct. It is simply not enough to merely propose construction measures. Millennium has failed in the most basic requirement to prove that such measures are adequate.

Therefore, to the extent that the pipeline furthers any national interest, it certainly does not outweigh the negative impact on the environment and the water supply security for the region.

REASONABLE ALTERNATE ROUTES ARE AVAILABLE

Millennium has put forth the argument that no reasonable alternative route is available. However, Millennium has not adequately investigated alternatives to the proposed crossing at Bryn Mawr.

Alternate pipeline routes are available both to the west and east of the Hudson River. In particular, the State has proposed, and the Corps has reviewed, an alternate route near the NYS Thruway that could be constructed with substantially less risk to the Aqueduct

MILLENNIUM IS NOT NECESSARY IN THE INTEREST OF NATIONAL SECURITY.

Millennium also argues that the State's determination should be overridden because the project is necessary in the interest of national security. To make this finding, the Secretary must determine that "a national defense or other national security interest would be significantly impaired were the activity not permitted to go forward as proposed". Therefore, it is critical that the activity directly support national defense or other essential national security objective.

Millennium fails in its burden to prove that the national security would be impaired by the lack of the Millennium Pipeline. Rather, it supposes that merely by being a gas pipeline it becomes a component of our national security. By such extreme rationale, each and every gas pipeline would qualify as part of our national security.

The criteria to override the State's determination do not grant such wide latitude to projects directly related to national defense or military operations, much less civilian enterprises. Even national defense projects would have the burden of proving a significant impairment of national defense if the project did not go forward as proposed.

Further, Millennium has provided no compelling evidence that of the available routes, the route that it supports is uniquely 'necessary in the interest of national security'. Instead, based on the risks identified by the United States Army Corps of Engineers, the pipeline route *as proposed* is more likely to be a liability to national security rather than an asset.

CONCLUSION

For these reasons, the City respectfully requests that the Secretary uphold the State's determination. Millennium's appeal should be dismissed because the project is neither consistent with the objectives of the Coastal Zone Management Act nor necessary for national security.